

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

MARY FRANCES HOLMES, individually	§	
<i>and on behalf of all others similarly situated</i>	§	
	§	
v.	§	1:13-CV-406
	§	
THE BANK OF NEW YORK MELLON	§	
<i>f/k/a The Bank of New York, as Trustee for</i>	§	
<i>CIT Home Equity Loan Trust 2003-1,</i>	§	
CIT LOAN CORPORATION f/k/a	§	
<i>Vericrest Financial, Inc., and T.D.</i>	§	
SERVICE COMPANY OF ARIZONA	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

The court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge, for pretrial proceedings. (Doc. No. 13.) Pending before the court is the “Motion to Dismiss” (Doc. No. 45) filed by the Bank of New York Mellon Corporation, as Trustee for the CIT Home Equity Loan Trust 2003-1, CIT Loan Corporation, Caliber Homes Loans Inc. f/k/a Vericrest Financial, Inc. and T.D. Service Company of Arizona (collectively, “Defendants”). The court has received and considered the report and recommendation of the magistrate judge (Doc. No. 60), recommending that the court grant the Defendants’ motion. No objections were filed to the magistrate judge’s report and recommendation, and the time for doing so has passed.

It is therefore **ORDERED** that the magistrate judge’s report and recommendation (Doc. No. 60) is **ADOPTED**; and the Defendants’ “Motion to Dismiss” (Doc. No. 45) is **GRANTED**.

Plaintiff Mary Frances Holmes's claims are dismissed with prejudice. The unnamed class members' claims are dismissed without prejudice. A final judgment will be entered separately.

So **ORDERED** and **SIGNED** this **11** day of **September, 2014**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge